

# **EXHIBIT 10**

## **(Excerpt)**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

United States of America, *et al.*,

Plaintiffs,

v.

Google LLC,

Defendant.

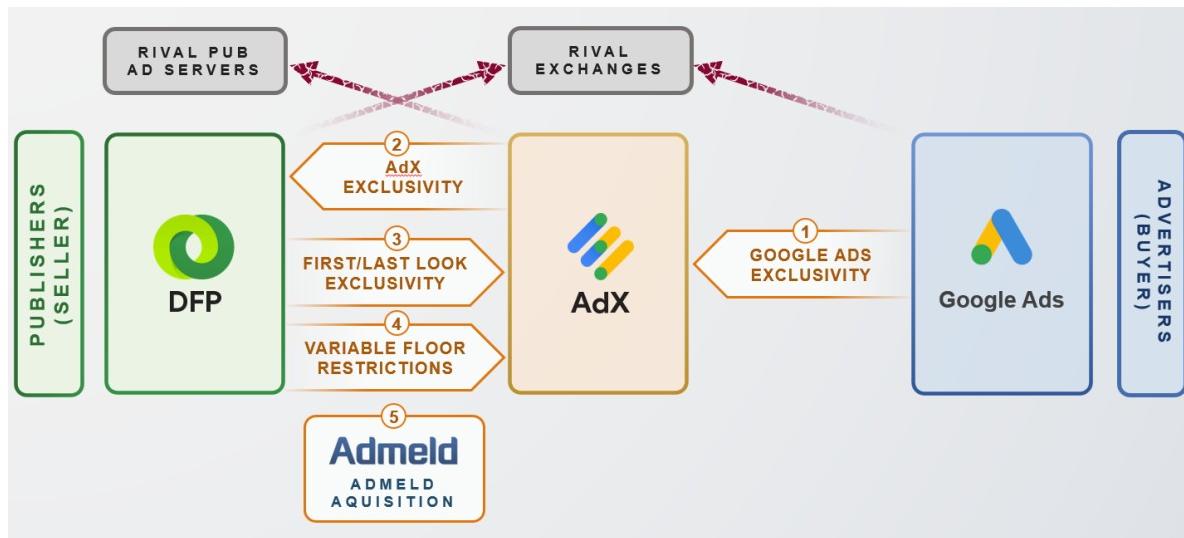
Case No. 1:23-cv-00108-LMB-JFA

Hon. Leonie H. M. Brinkema

**EXPERT REPORT OF ROBIN S. LEE, PHD**

**December 22, 2023**

Expert Report of Robin S. Lee, PhD

**Figure 60. Diagram of Google's exclusionary conduct**

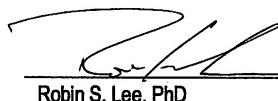
Notes: Diagram depicts Google's exclusionary conduct examined in this report. Solid white arrows denote the direction in which market power possessed by one product was used to enhance the market power of another, and broken red arrows denote the rivals that were foreclosed. For example, "Google Ads Exclusivity" represents Google providing unrestricted access to Ads' advertiser demand to AdX, and foreclosing such access to rival ad exchanges.

- (580) In Figure 61 and Figure 62, I provide a brief description and timeline of Google's exclusionary conduct.

**Figure 61. Description of Google's exclusionary conduct in the Ad Tech stack**

Conduct (Section)	Conduct description
1. "Ads-AdX exclusivity"(VII.B)	Google provides unrestricted access to all of Google Ads through AdX, but forecloses Google Ads' advertiser demand to rival exchanges. Because Google Ads advertisers represent a significant amount of spend and are valuable to publishers, unrestricted access to Ads via AdX harms rival exchanges' competitiveness and ability to attract customers.
2. "AdX-DFP exclusivity" (VII.C)	Google provides access to and use of real-time bids from AdX exclusively to DFP. Because access to and the ability to compare real-time bids from AdX increases publisher's yields and monetization, this act harms rival publisher ad servers' competitiveness and ability to attract publishers.
3. Exclusive first- and last-look advantages for AdX on DFP (VII.D.1)	Google provided AdX with exclusive access to Dynamic Allocation (until the introduction of Exchange Bidding) on DFP. This provided AdX with a "first look" at inventory coming from DFP, and a "last look" over exchanges using header-bidding tools, thereby denying rival exchanges the same opportunity to compete.
4. Variable floor restrictions (VII.D.2)	Google prevents publishers from setting lower reserve prices on rival ad exchanges than on AdX. This makes it more difficult for publishers to work with rival ad exchanges to have them serve more impressions over AdX.
5. AdMeld Acquisition (VII.E)	Google acquired AdMeld in 2011, eliminating an option that publishers had to manage multiple demand sources.

Expert Report of Robin S. Lee, PhD



Robin S. Lee, PhD

December 22, 2023

Date

Expert Report of Robin S. Lee, PhD

part of the deal value as including the “defensive value” of preventing Microsoft or Yahoo! from stealing Google’s existing inventory and publishers.<sup>1380</sup>

- (21) As a March 2007 email to several Google employees (including Susan Wojcicki and Tim Armstrong) noted,

The bottom line is that [DoubleClick's] product sucks and their value is based on their legacy and the bad spot we would be in if M or Y tied their inventory into the advertiser platform. ... We may end up paying a lot for [DoubleClick] because the Y/M inventory combo + advertiser tag switching costs will make it very very hard for us to gain market traction (and \$ flow into our inventory fast).<sup>1381</sup>

- (22) Google’s acquisition of DoubleClick triggered an investigation by the Federal Trade Commission. The FTC investigated whether the acquisition “could harm competition by allowing Google to exploit DoubleClick’s position in the third-party ad serving markets to the benefit of Google’s ad intermediation product, AdSense.”<sup>1382</sup> The FTC also recognized the possibility that Google might bundle its existing products with those acquired from DoubleClick.<sup>1383</sup> Despite these concerns, the FTC concluded that the acquisition was unlikely to substantially lessen competition in what they referred to as third party ad serving and ad intermediation markets.<sup>1384</sup> The FTC elected not to block the acquisition, but noted that “should Google engage in unlawful tying or other anticompetitive conduct, the Commission intends to act quickly.”<sup>1385</sup>
- (23) Ultimately, the DoubleClick acquisition—which closed in March 2008—provided Google with a foothold in the publisher ad server market which it used to strengthen its position across the entire ad tech stack. The acquisition provided additional supply for advertisers on Google’s platforms,

---

<sup>1380</sup> GOOG-DOJ-01657697, at -896 (03/15/2007) (“Our estimate of the offensive value of acquiring Liberty remains \$2.1-2.7B. In order to justify a \$3.1B price, we’d have to believe that 10-25% of our AFC business (\$400M-\$1B NPV) would go away if MSFT or YHOO acquired Liberty. We believe that a 10-25% downside impact to AFC is not an unreasonable scenario... An estimate of the defensive value depends on what % of our AFC business would be at risk if MSFT or Y! acquired Liberty. The assumption is that MSFT/Y!'s ad network RPMs could be increased if they owned Liberty. Higher RPMs would enable MSFT/Y! to steal some of our existing inventory/publishers and impede us from winning new inventory.”).

<sup>1381</sup> GOOG-DOJ-01657697, at -833 (03/15/2007) (2007 Google email exchange between Alex Kinnier and Jeff Huber).

<sup>1382</sup> Federal Trade Commission, “Federal Trade Commission Closes Google/DoubleClick Investigation,” Press Releases, December 20, 2007, <https://www.ftc.gov/news-events/news/press-releases/2007/12/federal-trade-commission-closes-googledoubleclick-investigation>.

<sup>1383</sup> Federal Trade Commission, “Statement of the Federal Trade Commission concerning Google/DoubleClick,” FTC File No. 071-0170, at 10, December 20, 2007, <https://www.ftc.gov/news-events/news/press-releases/2007/12/federal-trade-commission-closes-googledoubleclick-investigation>.

<sup>1384</sup> Federal Trade Commission, “Federal Trade Commission Closes Google/DoubleClick Investigation,” Press Releases, December 20, 2007, <https://www.ftc.gov/news-events/news/press-releases/2007/12/federal-trade-commission-closes-googledoubleclick-investigation>.

<sup>1385</sup> Federal Trade Commission, “Federal Trade Commission Closes Google/DoubleClick Investigation,” Press Releases, December 20, 2007, <https://www.ftc.gov/news-events/news/press-releases/2007/12/federal-trade-commission-closes-googledoubleclick-investigation>.

Expert Report of Robin S. Lee, PhD

bolstering the attractiveness of Google Ads. Similarly, DFP experienced significant growth following the acquisition. (See Sections V.D and V.B for discussion on the market power of Google Ads and DFP.)

- (24) The DoubleClick acquisition also provided the foundation for Google’s ad exchange that became AdX. In 2007, prior to its acquisition by Google, DoubleClick began developing the DoubleClick Ad Exchange.<sup>1386</sup> DoubleClick viewed the exchange as “the centerpiece of a growth plan” through which it may derive the majority of its revenue within five years.<sup>1387</sup> Following the acquisition, Google started building upon the exchange and launched AdX just two years later.<sup>1388</sup> The exchange grew rapidly. AdX’s revenue increased by nearly 300% in 2009 and by over 800% in 2010.<sup>1389</sup> By 2011, just three years after the acquisition, Google’s “Display Advertising OC Business Review” presentation labeled Google as the “#1 player in US display.”<sup>1390</sup>

## L.2. The emergence of header bidding

- (25) In Section VII.A, I explained the important role that DFP’s market power played in supporting and sustaining its market power elsewhere in the ad tech stack. In this Section, I describe how Google employees viewed header bidding as a competitive threat to Google’s control of the Ad Tech stack. Additionally, the following discussion also illustrates how, by harming the competitiveness of rivals in the ad exchange market, Google could protect DFP’s market power in the publisher ad server market.
- (26) This section is organized as follows.

- In Appendix L.2.a, I show that publishers viewed header bidding as a way around Google’s restrictive policies regarding the use of its ad tech products, and benefited from header bidding allowing them to pit multiple demand sources in real-time competition against one another.
- In Appendix L.2.b, I discuss how Google employees perceived header bidding as an “existential threat” to its control of the Ad Tech stack. I discuss how header bidding (in a manner similar to yield managers), by assisting publishers with accessing multiple real-time demand sources and

---

<sup>1386</sup> Greg Sterling, “Google Formally Announces New DoubleClick Ad Exchange,” *Search Engine Land*, Sept. 18, 2009, <https://searchengineland.com/googles-doubleclick-formally-announces-new-ad-exchange-26042>.

<sup>1387</sup> Louise Story, “DoubleClick to Set Up an Exchange for Buying and Selling Digital Ads,” *The New York Times*, April 4, 2007, *The New York Times*, <https://www.nytimes.com/2007/04/04/business/media/04adco.html>

<sup>1388</sup> Greg Sterling, “Google Formally Announces New DoubleClick Ad Exchange,” *Search Engine Land*, Sept. 18, 2009, <https://searchengineland.com/googles-doubleclick-formally-announces-new-ad-exchange-26042>. The original AdX product was built out of the DART platform. See GOOG-DOJ-04292352 at -352 (01/06/2011).

<sup>1389</sup> GOOG-DOJ-13097233, at -238 (06/01/2011) (Google presentation, “Display Advertising OC Business Review,” June 2011).

<sup>1390</sup> GOOG-DOJ-13097233, at -235 (06/01/2011) (Google presentation, “Display Advertising OC Business Review,” June 2011).